

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

IN RE TERRORIST ATTACKS ON SEPTEMBER 11, 2001

MDL No. 1570  
ECF case

*This document relates to:*

THOMAS BURNETT, SR., *et al.*

Plaintiffs

- against -

AL BARAKA INVESTMENT & DEVELOPMENT CORP., *et al.*,  
Defendants.

Civil Action No. 03 CV 9849  
(RCC)

**AFFIRMATION OF JUSTIN KAPLAN IN OPPOSITION TO MOTION OF YASSIN AL  
KADI FOR A PROTECTIVE ORDER AND TO QUASH SUBPOENA SERVED ON  
CITIBANK FSB**

Justin Kaplan, Esq., affirms as follows:

1. I am an attorney admitted to practice in Tennessee and am associated with the law firm Motley Rice LLC, lead counsel for the *Burnett* plaintiffs.
2. On June 30, 2004, Tom Steindler, counsel for Yassin Al Kadi, left a message for me. When I returned his call, Mr. Steindler told me that his client objected to plaintiffs' subpoena to Citibank because, he said, some of the items sought might implicate Mr. Kadi. Mr. Steindler stated that he interpreted the Court's Case Management Order #2 to preclude this discovery because Mr. Kadi had not yet answered the Complaint. He asked if plaintiffs would withdraw the subpoena. I told Mr. Steindler that I would need to speak to others and would get back to him. I subsequently called Mr. Steindler back and told him that we would not withdraw the subpoena. He stated that he would file a motion and asked me if plaintiffs would oppose it. I told him that we would.

3. During our conversations, Mr. Steindler did not inform me that he had any objections to the subpoena other than his view that the subpoena was barred by the Case Management Order as to his client. At no time did Mr. Steindler indicate that he sought anything other than a complete withdrawal of the subpoena. He did not inform me that he viewed the subpoena as overbroad and at no time did he ask me to consider narrowing the subpoena in any way.

4. Exhibit 1 to this affirmation is a true and accurate copy of certifications from the *International Herald Tribune* and *Al Quds al-Arabi*, showing the dates on which Yassin Al Kadi was served by publication in this case.

5. Exhibit 2 is a true and accurate copy of the notice of appearance filed by Mr. Steindler on September 12, 2003 as counsel for Mr. Kadi.

6. Exhibit 3 to this affirmation is a true and accurate print-out of an email sent on April 5, 2004, to all counsel of record, including Mr. Steindler, attaching the subpoena to Citibank dated April 6, 2004.

7. Exhibit 4 is a true and accurate print out of an email sent on June 23, 2004, to all counsel of records, including Mr. Steindler, attaching the subpoena to Citibank FSB dated June 23, 2004.

Affirmed in Charleston, S.C. on July 16, 2004

  
Justin Kaplan